

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

VERO TECHNICAL SUPPORT INC., a Florida corporation; and DOES 1-50, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

RICHARD CHU, an individual, on behalf of himself, and on behalf of all persons similarly situated,

ELECTRONICALLY FILED
Superior Court of California
County of Alameda
03/27/2023

Chad Finke, Executive Officer / Clerk of the Court

By: A. Linhares Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Alameda Superior Court - Rene C. Davidson Courthouse
1225 Fallon Street
Oakland, CA 94612

CASE NUMBER: **23CV030034**
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (858) 599-8291

JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE:

(Fecha) 03/27/2023 Chad Finke, Executive Officer / Clerk of the Court

Clerk, by A. Linhares

(Secretario)

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

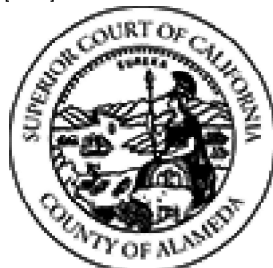
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

[SEAL]



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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

RICHARD CHU, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiffs,

v.

VERO TECHNICAL SUPPORT INC., a
Florida corporation; and DOES 1-50, Inclusive,

Defendants.

Case No: **23CV030034**

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;

- 1 6) FAILURE TO PROVIDE WAGES WHEN
2 DUE IN VIOLATION OF CAL. LAB.
3 CODE §§ 201, 202 AND 203;
4 7) FAILURE TO PROVIDE ACCURATE
5 ITEMIZED STATEMENTS IN
6 VIOLATION OF CAL. LAB. CODE § 226;
7 8) FAILURE TO REIMBURSE EMPLOYEES
8 FOR REQUIRED EXPENSES IN
9 VIOLATION OF CAL. LAB. CODE § 2802.
10 9) VIOLATION OF THE PRIVATE
11 ATTORNEYS GENERAL ACT [LABOR
12 CODE §§ 2698 ET SEQ

13 **DEMAND FOR A JURY TRIAL**

14 PLAINTIFF RICHARD CHU (“PLAINTIFF”), an individual, on behalf of himself and all
15 other similarly situated current and former employees, allege on information and belief, except for
16 his own acts and knowledge which are based on personal knowledge, the following:

17 **PRELIMINARY ALLEGATIONS**

18 1. Defendant VERO TECHNICAL SUPPORT INC. (“DEFENDANT” and/or
19 “DEFENDANTS”) is a Florida corporation that at all relevant times mentioned herein conducted
20 and continues to conduct substantial and regular business throughout California.

21 2. DEFENDANT provides technical support services in the airline and transportation
22 industries in California, including in Alameda County where PLAINTIFF worked.

23 3. PLAINTIFF has been employed by DEFENDANT in California since June of
24 2022 as a non-exempt employee, paid on an hourly basis and entitled to the legally required meal
25 and rest periods and payment of minimum and overtime wages due for all time worked.

26 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,
27 defined as all persons who are or previously were employed by DEFENDANT in California and
28 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the
CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

1 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
2 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
3 the CLASS PERIOD caused by DEFENDANT's uniform policy and practice which failed to
4 lawfully compensate these employees. DEFENDANT's uniform policy and practice alleged
5 herein was an unlawful, unfair, and deceptive business practice whereby DEFENDANT retained
6 and continues to retain wages due to PLAINTIFF and the other members of the CALIFORNIA
7 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
8 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
9 other members of the CALIFORNIA CLASS who have been economically injured by
10 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
11 relief.

12 6. The true names and capacities, whether individual, corporate, subsidiary,
13 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are
14 presently unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious
15 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
16 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are
17 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief
18 alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,
19 inclusive, are responsible in some manner for one or more of the events and happenings that
20 proximately caused the injuries and damages hereinafter alleged.

21 7. The agents, servants and/or employees of the Defendants and each of them acting
22 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
23 agent, servant and/or employee of the Defendants, and personally participated in the conduct
24 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
25 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all
26 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
27 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
28 Defendants' agents, servants and/or employees.

1 8. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of the
2 PLAINTIFF’S employer, within the meaning of California Labor Code § 558, who violated or
3 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
4 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
5 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
6 at all relevant times.

7 9. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of
8 PLAINTIFF’S employer either individually or as an officer, agent, or employee of another person,
9 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
10 employee a wage less than the minimum fixed by California state law, and as such, are subject to
11 civil penalties for each underpaid employee.

12 10. DEFENDANT’S uniform policies and practices alleged herein were unlawful,
13 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
14 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

15 11. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
16 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and
17 other members of the CALIFORNIA CLASS who has been economically injured by
18 DEFENDANT’S past and current unlawful conduct, and all other appropriate legal and equitable
19 relief.

20 **JURISDICTION AND VENUE**

21 12. This Court has jurisdiction over this Action pursuant to California Code of Civil
22 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
23 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
24 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

25 13. Venue is proper in this Court pursuant to California Code of Civil Procedure,
26 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs
27 the CALIFORNIA CLASS across California, including in this County, and committed the
28 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

THE CONDUCT

14. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANT’s uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows DEFENDANT to illegally profit and gain an unfair advantage over competitors who comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS PERIOD should be adjusted accordingly.

A. Meal Period Violations

15. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the CLASS PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they were under DEFENDANT’s control. Specifically, DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be

1 PLAINTIFF'S off-duty meal break. Indeed, there were many days where PLAINTIFF did not
2 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS
3 Members forfeited minimum wage and overtime compensation by regularly working without their
4 time being accurately recorded and without compensation at the applicable minimum wage and
5 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other
6 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business
7 records.

8 16. From time to time during the CLASS PERIOD, as a result of their rigorous work
9 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other
10 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty
11 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other
12 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for
13 more than five (5) hours during some shifts without receiving a meal break. Further,
14 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second
15 off-duty meal period for some workdays in which these employees are required by DEFENDANT
16 to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other
17 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-
18 duty" meal period exception. When they were provided with meal periods, PLAINTIFF and other
19 CALIFORNIA CLASS Members were, from time to time, required to remain on premises, on
20 duty and on call. Further, from time to time, DEFENDANT required PLAINTIFF and other
21 CALIFORNIA CLASS Members to maintain cordless communication devices on them during
22 what was supposed to be their off-duty meal break in order to receive and respond to work-related
23 communications. DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA
24 CLASS Members with legally required meal breaks is evidenced by DEFENDANT's business
25 records. PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal
26 breaks without additional compensation and in accordance with DEFENDANT's strict corporate
27 policy and practice.

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1 **B. Rest Period Violations**

2 17. From time to time during the CLASS PERIOD, PLAINTIFF and other
3 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
4 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
5 DEFENDANT's inadequate staffing. Further, for the same reasons, these employees were denied
6 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
7 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
8 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
9 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
10 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
11 CLASS Members were, from time to time, required to remain on premises, on duty and/or on call.
12 Further, from time to time, DEFENDANT required PLAINTIFF and other CALIFORNIA
13 CLASS Members to maintain cordless communication devices on them during what was
14 supposed to be their off-duty rest break in order to receive and respond to work-related
15 communications. PLAINTIFF and other CALIFORNIA CLASS Members were also not
16 provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and
17 DEFENDANT's inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members
18 were from time to time denied their proper rest periods by DEFENDANT and DEFENDANT's
19 managers.

20 **C. Wage Statement Violations**

21 18. California Labor Code Section 226 required an employer to furnish its employees
22 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
23 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
24 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
25 name of the employee and only the last four digits of the employee's social security number or an
26 employee identification number other than a social security number, (8) the name and address of
27 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
28 period and the corresponding number of hours worked at each hourly rate by the employee.

1 19. From time to time during the CLASS PERIOD, when PLAINTIFF and other
2 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
3 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also
4 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and
5 accurate wage statements which failed to show, among other things, all deductions, the total hours
6 worked and all applicable hourly rates in effect during the pay period, and the corresponding
7 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
8 meal and rest periods. Further, DEFENDANT from time to time provided PLAINTIFF and other
9 CALIFORNIA CLASS Members with wage statements that included hours for “Holiday” into
10 the computation of total hours worked. However, “Holiday” hours are not considered hours
11 worked for purposes of Cal. Lab. Code § 226(a)(2). As such, DEFENDANT from time to time
12 issued wage statements to PLAINTIFF and other CALIFORNIA CLASS Members that violation
13 Cal. Lab. Code § 226(a)(2).

14 20. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
15 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
16 Cal. Lab. Code § 226.

17 21. As a result, DEFENDANT issued PLAINTIFF and other members of the
18 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
19 DEFENDANT’s violations are knowing and intentional, were not isolated due to an unintentional
20 payroll error due to clerical or inadvertent mistake.

21 **D. Off-the-Clock Minimum Wage and Overtime Violations**

22 22. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
23 were required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time
24 worked, meaning the time during which an employee is subject to the control of an employer,
25 including all the time the employee is suffered or permitted to work. From time to time,
26 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without
27 paying them for all the time they were under DEFENDANTS’ control.
28

1 23. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited
2 minimum wage and overtime compensation by regularly working without their time being
3 accurately recorded and without compensation at the applicable minimum wage and overtime
4 rates. DEFENDANTS failed to pay PLAINTIFF and other members of the CALIFORNIA
5 CLASS necessary wages for attending for performing work at DEFENDANTS' direction,
6 request, and benefit, while off-the clock. DEFENDANTS' uniform policy and practice not to pay
7 PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is evidenced by
8 DEFENDANTS' business records.

9 24. DEFENDANTS directed and directly benefited from the uncompensated off-the-
10 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

11 25. DEFENDANTS controlled the work schedules, duties, protocols, applications,
12 assignments, and employment conditions of PLAINTIFF and the other members of the
13 CALIFORNIA CLASS.

14 26. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
15 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
16 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
17 wages earned and owed for all the work they performed, including pre-shift, post shift and during
18 meal period off-the-clock work.

19 27. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
20 exempt employees, subject to the requirements of the California Labor Code.

21 28. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
22 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
23 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
24 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
25 hours per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

26 29. DEFENDANTS knew or should have known that PLAINTIFF and the other
27 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.
28

1 30. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
2 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
3 for the time spent working while off-the-clock. DEFENDANTS' uniform policy and practice to
4 not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked
5 in accordance with applicable law is evidenced by DEFENDANTS' business records.

6 **E. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
7 **and Redeemed Sick Pay**

8 31. From time to time during the CLASS PERIOD, DEFENDANT failed and
9 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
10 Members for their overtime and double time hours worked, meal and rest period premiums, and
11 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members
12 forfeited wages due to them for working overtime without compensation at the correct overtime
13 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
14 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at
15 the correct rate for all overtime and double time worked, meal and rest period premiums, and
16 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT's business
17 records.

18 32. State law provides that employees must be paid overtime at one-and-one-half times
19 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were
20 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
21 employee's performance.

22 33. The second component of PLAINTIFF's and other CALIFORNIA CLASS
23 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
24 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
25 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
26 basis with bonus compensation when the employees met the various performance goals set by
27 DEFENDANTS.

1 34. However, from-time-to-time, when calculating the regular rate of pay, in those pay
2 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
3 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
4 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
5 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
6 rather than just all non-overtime hours worked. Management and supervisors described the
7 incentive/bonus program to potential and new employees as part of the compensation package.
8 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
9 CLASS members must be included in the "regular rate of pay." The failure to do so has resulted
10 in a systematic underpayment of overtime and double time compensation, meal and rest period
11 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by
12 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
13 for non-employees shall be calculated in the same manner as the regular rate of pay for the
14 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
15 actually works overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by
16 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of
17 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
18 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

19 35. In violation of the applicable sections of the California Labor Code and the
20 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
21 matter of company policy, practice, and procedure, intentionally and knowingly failed to
22 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
23 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.
24 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment
25 of the correct overtime and double time compensation, meal and rest period premiums, and sick
26 pay as required by California law which allowed DEFENDANT to illegally profit and gain an
27 unfair advantage over competitors who complied with the law. To the extent equitable tolling
28

operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the CLASS PERIOD should be adjusted accordingly.

F. Unreimbursed Business Expenses

36. DEFENDANT as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

37. In the course of their employment, DEFENDANT required PLAINTIFF and other CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell phones as a result of and in furtherance of their job duties. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for the personal expenses incurred for the use of their own personal cell phones. As a result, in the course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA CLASS Members incurred unreimbursed business expenses that included, but were not limited to, costs related to the use of their own personal cell phones, all on behalf of and for the benefit of DEFENDANT.

G. Unlawful Rounding Practices

38. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in place an immutable timekeeping system to accurately record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual time these employees worked each day, including overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding policy and practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being

1 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did
2 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping
3 system for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying
4 these employees for all their time worked, including the applicable overtime compensation for
5 overtime worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from time
6 to time, forfeited compensation for their time worked by working without their time being
7 accurately recorded and without compensation at the applicable overtime rates.

8 39. Further, the mutability of DEFENDANTS' timekeeping system and unlawful
9 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time
10 being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding
11 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work
12 as ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an
13 off-duty meal break.

14 **H. Timekeeping Manipulation**

15 40. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
16 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
17 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
18 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
19 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
20 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
21 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
22 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
23 rest break.

24 41. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
25 time-to-time, forfeited time worked by working without their time being accurately recorded and
26 without compensation at the applicable pay rates.

27 42. The mutability of the timekeeping system also allowed DEFENDANTS to alter
28 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'

1 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
2 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
3 were not at all times provided an off-duty meal break. This practice is a direct result of
4 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
5 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

6 43. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
7 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
8 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and
9 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
10 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
11 records.

12 **I. Violations for Untimely Payment of Wages**

13 44. Pursuant to California Labor Code section 204, PLAINTIFF and the
14 CALIFORNIA CLASS members were entitled to timely payment of wages during their
15 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not
16 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
17 meal period premium wages, and rest period premium wages within permissible time period.

18 **J. Unlawful Deductions**

19 45. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
20 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do
21 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,
22 DEFENDANTS violated Labor Code § 221.

23 46. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
24 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
25 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
26 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
27 provide PLAINTIFF with a second off-duty meal period each workday in which he was required
28 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF

1 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.
2 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was
3 supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
4 without additional compensation and in accordance with DEFENDANT’S strict corporate policy
5 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
6 comply with Cal. Lab. Code § 226. Further, DEFENDANT failed to reimburse PLAINTIFF for
7 required business expenses related to the use of his personal cell phone in violation of Cal. Lab.
8 Code § 2802. To date, DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and
9 double time compensation still owed to him or any penalty wages owed to him under Cal. Lab.
10 Code § 203. The amount in controversy for PLAINTIFF individually does not exceed the sum or
11 value of \$75,000.

12 **CLASS ACTION ALLEGATIONS**

13 47. PLAINTIFF bring this Class Action on behalf of himself, and a California class
14 defined as all persons who are or previously were employed by DEFENDANT in California and
15 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
16 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
17 by the Court (the “CLASS PERIOD”).

18 48. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
19 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
20 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
21 illegal meal and rest period policies, failed compensate for off-the-clock work, failure to provide
22 accurate itemized wage statements, failed to reimburse for business expenses, failure to maintain
23 required records, and interest, statutory and civil penalties, attorney’s fees, costs, and expenses.

24 49. The members of the class are so numerous that joinder of all class members is
25 impractical.

26 50. Common questions of law and fact regarding DEFENDANT’s conduct, including
27 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
28 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the

1 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
2 compliant meal and rest periods, failure to provide accurate itemized wage statements accurate,
3 failed to reimburse for business expenses, and failure to ensure they are paid at least minimum
4 wage and overtime, exist as to all members of the class and predominate over any questions
5 affecting solely any individual members of the class. Among the questions of law and fact
6 common to the class are:

- 7 a. Whether DEFENDANT maintained legally compliant meal period policies and
8 practices;
- 9 b. Whether DEFENDANT maintained legally compliant rest period policies and
10 practices;
- 11 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
12 Members accurate premium payments for missed meal and rest periods;
- 13 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
14 Members accurate overtime wages;
- 15 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
16 Members at least minimum wage for all hours worked;
- 17 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
18 CLASS Members for required business expenses;
- 19 g. Whether DEFENDANT issued legally compliant wage statements;
- 20 h. Whether DEFENDANT committed an act of unfair competition by systematically
21 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
22 CLASS for all time worked;
- 23 i. Whether DEFENDANT committed an act of unfair competition by systematically
24 failing to record all meal and rest breaks missed by PLAINTIFF and other
25 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
26 of this work, required employees to perform this work and permits or suffers to
27 permit this work;
- 28

1 j. Whether DEFENDANT committed an act of unfair competition in violation of the
2 UCL, by failing to provide the PLAINTIFF and the other members of the
3 CALIFORNIA CLASS with the legally required meal and rest periods.

4 51. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as
5 a result of DEFENDANT's conduct and actions alleged herein.

6 52. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and
7 PLAINTIFF have the same interests as the other members of the class.

8 53. PLAINTIFF will fairly and adequately represent and protect the interests of the
9 CALIFORNIA CLASS Members.

10 54. PLAINTIFF retained able class counsel with extensive experience in class action
11 litigation.

12 55. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
13 interest of the other CALIFORNIA CLASS Members.

14 56. There is a strong community of interest among PLAINTIFF and the members of
15 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
16 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
17 sustained.

18 57. The questions of law and fact common to the CALIFORNIA CLASS Members
19 predominate over any questions affecting only individual members, including legal and factual
20 issues relating to liability and damages.

21 58. A class action is superior to other available methods for the fair and efficient
22 adjudication of this controversy because joinder of all class members is impractical. Moreover,
23 since the damages suffered by individual members of the class may be relatively small, the
24 expense and burden of individual litigation makes it practically impossible for the members of the
25 class individually to redress the wrongs done to them. Without class certification and
26 determination of declaratory, injunctive, statutory, and other legal questions within the class
27 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
28 create the risk of:

- 1 a. Inconsistent or varying adjudications with respect to individual members of the
2 CALIFORNIA CLASS which would establish incompatible standards of conduct
3 for the parties opposing the CALIFORNIA CLASS; and/or,
4 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
5 which would as a practical matter be dispositive of the interests of the other
6 members not party to the adjudication or substantially impair or impeded their
7 ability to protect their interests.

8 59. Class treatment provides manageable judicial treatment calculated to bring an
9 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
10 the conduct of DEFENDANT.

11 **FIRST CAUSE OF ACTION**

12 **Unlawful Business Practices**

13 **(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)**

14 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

15 60. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
16 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
17 Complaint.

18 61. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
19 Code § 17021.

20 62. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
21 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
22 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition
23 as follows:

24 Any person who engages, has engaged, or proposes to engage in unfair competition may
25 be enjoined in any court of competent jurisdiction. The court may make such orders or
26 judgments, including the appointment of a receiver, as may be necessary to prevent the
27 use or employment by any person of any practice which constitutes unfair competition, as
28 defined in this chapter, or as may be necessary to restore to any person in interest any
money or property, real or personal, which may have been acquired by means of such
unfair competition. (Cal. Bus. & Prof. Code § 17203).

1 63. By the conduct alleged herein, DEFENDANT has engaged and continues to
2 engage in a business practice which violates California law, including but not limited to, the
3 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
4 including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
5 1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant
6 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held
7 to constitute unfair competition, including restitution of wages wrongfully withheld.

8 64. By the conduct alleged herein, DEFENDANT's practices were unlawful and unfair
9 in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
10 or substantially injurious to employees, and were without valid justification or utility for which
11 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
12 Business & Professions Code, including restitution of wages wrongfully withheld.

13 65. By the conduct alleged herein, DEFENDANT's practices were deceptive and
14 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
15 mandated meal and rest periods and the required amount of compensation for missed meal and
16 rest periods, and failed to pay minimum and overtime wages owed, due to a systematic business
17 practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare
18 Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
19 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
20 including restitution of wages wrongfully withheld.

21 66. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
22 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
23 other members of the CALIFORNIA CLASS to be underpaid during their employment with
24 DEFENDANT.

25 67. By the conduct alleged herein, DEFENDANT's practices were also unfair and
26 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
27 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as
28 required by Cal. Lab. Code §§ 226.7 and 512.

1 68. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
2 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
3 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
4 each workday in which a second off-duty meal period was not timely provided for each ten (10)
5 hours of work.

6 69. PLAINTIFF further demands on behalf of himself and on behalf of each
7 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
8 not timely provided as required by law.

9 70. By and through the unlawful and unfair business practices described herein,
10 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
11 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
12 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
13 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
14 to unfairly compete against competitors who comply with the law.

15 71. All the acts described herein as violations of, among other things, the Industrial
16 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
17 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and
18 unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and deceptive business
19 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

20 72. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
21 and do, seek such relief as may be necessary to restore to them the money and property which
22 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the
23 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
24 business practices, including earned but unpaid wages for all time worked.

25 73. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
26 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,
27 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
28 engaging in any unlawful and unfair business practices in the future.

1 74. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
2 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
3 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
4 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
5 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
6 and economic harm unless DEFENDANT is restrained from continuing to engage in these
7 unlawful and unfair business practices.

8 **SECOND CAUSE OF ACTION**

9 **Failure To Pay Minimum Wages**

10 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

11 **Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants**

12 75. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
13 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
14 Complaint.

15 76. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
16 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial
17 Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay
18 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

19 77. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
20 policy, an employer must timely pay its employees for all hours worked.

21 78. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
22 commission is the minimum wage to be paid to employees, and the payment of a less wage than
23 the minimum so fixed is unlawful.

24 79. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
25 including minimum wage compensation and interest thereon, together with the costs of suit.

26 80. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
27 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
28 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and

1 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
2 CALIFORNIA CLASS.

3 81. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
5 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
6 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

7 82. In committing these violations of the California Labor Code, DEFENDANT
8 inaccurately calculated the correct time worked and consequently underpaid the actual time
9 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
10 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
11 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
12 laws and regulations.

13 83. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
14 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
15 minimum wage compensation for their time worked for DEFENDANT.

16 84. During the CLASS PERIOD, PLAINTIFF and the other members of the
17 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
18 failure to pay all earned wages.

19 85. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
20 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
21 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have
22 suffered and will continue to suffer an economic injury in amounts which are presently unknown
23 to them, and which will be ascertained according to proof at trial.

24 86. DEFENDANT knew or should have known that PLAINTIFF and the other
25 members of the CALIFORNIA CLASS were under-compensated for their time worked.
26 DEFENDANT systematically elected, either through intentional malfeasance or gross
27 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
28 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay

1 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
2 for their time worked.

3 87. In performing the acts and practices herein alleged in violation of California labor
4 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
5 and provide them with the requisite compensation, DEFENDANT acted and continues to act
6 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
7 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
8 consequences to them, and with the despicable intent of depriving them of their property and legal
9 rights, and otherwise causing them injury in order to increase company profits at the expense of
10 these employees.

11 88. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
12 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the
13 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
14 California Labor Code and/or other applicable statutes. To the extent minimum wage
15 compensation is determined to be owed to the CALIFORNIA CLASS Members who have
16 terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or
17 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
18 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS
19 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good
20 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and
21 recover statutory costs.

22 **THIRD CAUSE OF ACTION**

23 **Failure To Pay Overtime Compensation**

24 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

25 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

26 89. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
27 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
28 Complaint.

1 90. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
2 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial
3 Welfare Commission requirements for DEFENDANT's failure to pay these employees for all
4 overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or
5 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

6 91. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
7 policy, an employer must timely pay its employees for all hours worked.

8 92. Cal. Lab. Code § 510 provides that employees in California shall not be employed
9 more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless
10 they receive additional compensation beyond their regular wages in amounts specified by law.

11 93. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
12 including minimum and overtime compensation and interest thereon, together with the costs of
13 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
14 than those fixed by the Industrial Welfare Commission is unlawful.

15 94. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
16 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
17 they worked, including overtime work.

18 95. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
19 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
20 implementing a uniform policy and practice that failed to accurately record overtime worked by
21 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to
22 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
23 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
24 (12) hours in a workday, and/or forty (40) hours in any workweek.

25 96. In committing these violations of the California Labor Code, DEFENDANT
26 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
27 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
28 attempt to avoid the payment of all earned wages, and other benefits in violation of the California

1 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
2 regulations.

3 97. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
4 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
5 overtime compensation for their time worked for DEFENDANT.

6 98. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
7 from the overtime requirements of the law. None of these exemptions are applicable to
8 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
9 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
10 agreement that would preclude the causes of action contained herein this Complaint. Rather,
11 PLAINTIFF bring this Action on behalf of himself, and the CALIFORNIA CLASS, based on
12 DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of
13 California.

14 99. During the CLASS PERIOD, PLAINTIFF and the other members of the
15 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
16 a failure to pay all earned wages.

17 100. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the
18 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
19 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194, & 1198, even
20 though PLAINTIFF and the other members of the CALIFORNIA CLASS were regularly required
21 to work, and did in fact work overtime, and did in fact work overtime as to which DEFENDANT
22 failed to accurately record and pay as evidenced by DEFENDANT's business records and
23 witnessed by employees.

24 101. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
25 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
26 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA
27 CLASS have suffered and will continue to suffer an economic injury in amounts which are
28 presently unknown to them, and which will be ascertained according to proof at trial.

1 102. DEFENDANT knew or should have known that PLAINTIFF and the other
2 members of the CALIFORNIA CLASS were undercompensated for their time worked.
3 DEFENDANT systematically elected, either through intentional malfeasance or gross
4 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and
5 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF
6 and the other members of the CALIFORNIA CLASS the correct overtime wages for their
7 overtime worked.

8 103. In performing the acts and practices herein alleged in violation of California labor
9 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
10 and provide them with the requisite compensation, DEFENDANT acted and continues to act
11 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
12 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the
13 consequences to them, and with the despicable intent of depriving them of their property and legal
14 rights, and otherwise causing them injury in order to increase company profits at the expense of
15 these employees.

16 104. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS
17 request recovery of overtime wages, according to proof, interest, statutory costs, as well as the
18 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
19 California Labor Code and/or other applicable statutes. To the extent overtime compensation is
20 determined to be owed to the CALIFORNIA CLASS Members who have terminated their
21 employment, DEFENDANT'S conduct also violates Labor Code §§ 201 and/or 202, and therefore
22 these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
23 penalties are sought herein. DEFENDANT's conduct as alleged herein was willful, intentional,
24 and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are
25 entitled to seek and recover statutory costs.

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1 108. As a proximate result of the aforementioned violations, PLAINTIFF and
2 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
3 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

4 **FIFTH CAUSE OF ACTION**

5 **Failure To Provide Required Rest Periods**

6 **(Cal. Lab. Code §§ 226.7 & 512)**

7 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

8 109. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
9 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
10 Complaint.

11 110. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
12 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
13 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
14 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)
15 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and
16 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.
17 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
18 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other
19 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
20 DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate
21 PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the
22 applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide
23 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest
24 periods is evidenced by DEFENDANT's business records.

25 111. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
26 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members
27 who were not provided a rest period, in accordance with the applicable Wage Order, one
28

1 additional hour of compensation at each employee's regular rate of pay for each workday that rest
2 period was not provided.

3 112. As a proximate result of the aforementioned violations, PLAINTIFF and
4 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
5 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Pay Wages When Due**

8 **(Cal. Lab. Code § 203)**

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

10 113. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
12 Complaint.

13 114. Cal. Lab. Code § 200 provides that:

14 As used in this article:

- 15 (d) "Wages" includes all amounts for labor performed by employees of every
16 description, whether the amount is fixed or ascertained by the standard of time,
17 task, piece, Commission basis, or other method of calculation.
18 (e) "Labor" includes labor, work, or service whether rendered or performed under
19 contract, subcontract, partnership, station plan, or other agreement if the to be
20 paid for is performed personally by the person demanding payment.

21 115. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges
22 an employee, the wages earned and unpaid at the time of discharge are due and payable
23 immediately."

24 116. Cal. Lab. Code § 202 provides, in relevant part, that:

25 If an employee not having a written contract for a definite period quits his or her
26 employment, his or her wages shall become due and payable not later than 72 hours
27 thereafter, unless the employee has given 72 hours previous notice of his or her intention
28 to quit, in which case the employee is entitled to his or her wages at the time of quitting.
Notwithstanding any other provision of law, an employee who quits without providing a
72-hour notice shall be entitled to receive payment by mail if he or she so requests and
designates a mailing address. The date of the mailing shall constitute the date of payment
for purposes of the requirement to provide payment within 72 hours of the notice of
quitting.

117. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS Members' employment contract.

118. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

119. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated, and DEFENDANT has not tendered payment of wages to these employees who missed meal and rest breaks, as required by law.

120. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and the members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD and demand an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

SEVENTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

121. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

122. Cal. Labor Code § 226 provides that an employer must furnish employees with an "accurate itemized" statement in writing showing:

- a. Gross wages earned,
- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,

- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

123. When DEFENDANT did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods. Further, DEFENDANT from time to time provided PLAINTIFF and other CALIFORNIA CLASS Members with wage statements that included hours for "Holiday" into the computation of total hours worked. However, "Holiday" hours are not considered hours worked for purposes of Cal. Lab. Code § 226(a)(2). As such, DEFENDANT from time to time issued wage statements to PLAINTIFF and other CALIFORNIA CLASS Members that violation Cal. Lab. Code § 226(a)(2).

124. In addition to the foregoing, DEFENDANT failed to provide itemized wage

1 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the
2 requirements of California Labor Code Section 226.

3 125. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
4 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
5 CLASS. These damages include, but are not limited to, costs expended calculating the correct
6 wages for all missed meal and rest breaks and the amount of employment taxes which were not
7 properly paid to state and federal tax authorities. These damages are difficult to estimate.
8 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
9 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation
10 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
11 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
12 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
13 of the CALIFORNIA CLASS herein).

14 **EIGHTH CAUSE OF ACTION**

15 **Failure To Reimburse Employees for Required Expenses**

16 **(Cal. Lab. Code §§ 2802)**

17 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

18 126. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
19 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
20 Complaint.

21 127. Cal. Lab. Code § 2802 provides, in relevant part, that:

22 An employer shall indemnify his or her employee for all necessary expenditures or
23 losses incurred by the employee in direct consequence of the discharge of his or her
24 duties, or of his or her obedience to the directions of the employer, even though
unlawful, unless the employee, at the time of obeying the directions, believed them
to be unlawful.

25 128. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.
26 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
27 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
28 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS

1 members for expenses which included, but were not limited to, the use of their personal cell
2 phones all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other
3 CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell
4 phones to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's
5 uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA
6 CLASS members for expenses resulting from the use of their personal cell phones for
7 DEFENDANT within the course and scope of their employment for DEFENDANT. These
8 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by
9 DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were
10 necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members,
11 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
12 members for these expenses as an employer is required to do under the laws and regulations of
13 California.

14 129. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
15 by him and the CALIFORNIA CLASS members in the discharge of their job duties for
16 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the
17 statutory rate and costs under Cal. Lab. Code § 2802.

18 **NINTH CAUSE OF ACTION**

19 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

20 **(Cal. Lab. Code §§2698 et seq.)**

21 **(Alleged by PLAINTIFF against all Defendants)**

22 130. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
23 herein, the prior paragraphs of this Complaint.

24 131. PAGA is a mechanism by which the State of California itself can enforce state
25 labor laws through the employee suing under the PAGA who does so as the proxy or agent of the
26 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
27 fundamentally a law enforcement action designed to protect the public and not to benefit private
28 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means

1 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting
2 PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved
3 employees, acting as private attorneys general to recover civil penalties for Labor Code violations
4 ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

5 132. PLAINTIFF, and such persons that may be added from time to time who satisfy
6 the requirements and exhaust the administrative procedures under the Private Attorney General
7 Act, bring this Representative Action on behalf of the State of California with respect to himself
8 and all employees who worked for Defendant in California during the time period of January 18,
9 2022 until the present (the "AGGRIEVED EMPLOYEES").

10 133. On January 18, 2023, PLAINTIFF gave written notice by certified mail to the
11 Labor and Workforce Development Agency (the "Agency") and the employer of the specific
12 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
13 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
14 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant
15 to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA
16 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
17 EMPLOYEES as herein defined.

18 134. The policies, acts and practices heretofore described were and are an unlawful
19 business act or practice because DEFENDANTS (a) failed to pay AGGRIEVED EMPLOYEES
20 minimum wages and overtime wages, (b) failed to provide AGGRIEVED EMPLOYEES legally
21 required meal and rest breaks, (c) failed to pay AGGRIEVED EMPLOYEES at the correct
22 regular rate of pay, (d) failed to pay AGGRIEVED EMPLOYEES for all time worked, and (e)
23 failed to timely pay wages, all in violation of the applicable Labor Code sections listed in Labor
24 Code §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5,
25 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1,
26 1197.14, 1198, 1198.5, 1199, 2802, and 2804, and the applicable Industrial Wage Order(s), and
27 thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks
28 recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004

1 as the representative of the State of California for the illegal conduct perpetrated on PLAINTIFF
2 and the other AGGRIEVED EMPLOYEES.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and
5 severally, as follows:

6 1. On behalf of the CALIFORNIA CLASS:

- 7 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
8 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
9 b. An order temporarily, preliminarily and permanently enjoining and restraining
10 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
11 c. An order requiring DEFENDANT to pay all overtime wages and all sums
12 unlawfully withheld from compensation due to PLAINTIFF and the other members
13 of the CALIFORNIA CLASS; and
14 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
15 for restitution of the sums incidental to DEFENDANT's violations due to
16 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

17 2. On behalf of the CALIFORNIA CLASS:

- 18 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
19 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
20 to Cal. Code of Civ. Proc. § 382;
21 b. Compensatory damages, according to proof at trial, including compensatory
22 damages for overtime compensation due to PLAINTIFF and the other members of
23 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
24 thereon at the statutory rate;
25 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
26 the applicable IWC Wage Order;
27 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
28 which a violation occurs and one hundred dollars (\$100) per each member of the

CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226

e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.

3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES: Recovery of civil penalties as prescribe by the Labor Code Private Attorneys General Act of 2004;

4. On all claims:

a. An award of interest, including prejudgment interest at the legal rate;

b. Such other and further relief as the Court deems just and equitable; and

c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

DATED: March 27, 2023

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade, Esq.

Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

DATED: March 27, 2023

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade, Esq.

Attorney for PLAINTIFF

EXHIBIT 1



ZAKAY LAW GROUP
A PROFESSIONAL LAW CORPORATION

Client # 57701

January 18, 2023

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

VERO TECHNICAL SUPPORT INC.

c/o Cogency Global Inc.
122 E. 42nd St., 18th Fl
New York, NY 10168

Via Certified U.S. Mail with Return Receipt No. 7022 2410 0003 0424 4757

c/o Registered Agent
1325 J St, Ste 1550
Sacramento, CA 95814

Via Certified U.S. Mail with Return Receipt No. 7022 2410 0003 0424 4764

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff RICHARD CHU ("Plaintiff"), and other aggrieved employees in a proposed lawsuit against Defendant VERO TECHNICAL SUPPORT INC. ("Defendant"). Plaintiff has been employed by Defendant in since June of 2022, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other aggrieved employees, which among other violations of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt employees who worked for Defendant in California during the relevant claim period.

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues his investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay
Attorney for Plaintiff